

Congress of the United States
House of Representatives
Washington, DC 20515-0530

November 1, 2007

Dear Democratic Colleague:

I believe that the more facts that are known about the Peru trade agreement, and about the fundamental changes House Democrats made to that agreement, the more Members of our caucus will see fit to support it.

Government procurement is one of the areas where there is a great deal of misunderstanding and misinformation. For example, some critics have claimed that an "enormous amount" of government procurement activity is covered by the Peru FTA. **In fact, the Peru FTA contains major carve-outs that preserve "Buy America" preferences for U.S. suppliers at the local, state, and federal level for ALL BUT A SMALL FRACTION OF CONTRACTS.**

ALL local-level government procurement is EXEMPTED.

ALL state procurement is EXEMPTED unless individual states choose to opt in. Only **eight states** have opted to do so and only their contracts for goods and services **above \$526,000** are covered.

Carve-outs exempt the VAST MAJORITY of federal contracts.

Nearly two-thirds of all federal contracts are excluded by the thresholds alone: The FTA procurement obligations apply only to federal procurement contracts higher than **\$193,000**. In fiscal year 2006, close to **two-thirds** of all federal contracts were below that threshold and would not have been covered by the agreement.

Key additional procurements are excluded by carve outs. For example, most of the remaining one-third of federal procurement contracts are likely to be acquisitions by the Department of Defense, which accounted for 70% of federal government procurement dollars in FY 2006. A huge portion of DoD procurement is excluded from FTAs through specific exceptions (e.g., for goods in 27 broad Federal Supply Classification categories) and the "national security" exception.

In FY 2006, procurement under **all U.S. trade agreements** (e.g., Australia, Bahrain, CAFTA, NAFTA, Morocco, and Singapore) accounted for **less than 0.2% of DoD procurements**.

New FTA text, included at insistence of House Democrats, clarifies that state and federal procuring agencies are free not to procure from suppliers that fail to comply with generally applicable laws regarding **"fundamental principles and rights at work"** and

"acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

Once all of these thresholds and exceptions are applied, the pool of covered contracts under the Peru FTA is very small. Moreover, Peru is unlikely to have many companies capable of competing for this small number of procurements. By contrast, U.S. companies are likely to have the ability to compete successfully for procurement opportunities in Peru.

While the **coverage** of the procurement chapter is limited, however, it is important to keep in mind what those provisions do accomplish. The provisions play an important role in **increasing transparency and the rule of law** in government procurement in Peru and in **addressing corruption and due process rights** for suppliers of U.S. goods and services. This is important not only to U.S. manufacturers and service providers who want to export to Peru's government, it is also important in the fight against government corruption and bribery.

I believe it is important that we have the facts straight on the Peru FTA as our caucus begins its consideration of the agreement. I hope you will give this agreement – an important step in a new U.S. trade policy – your close attention and support.

Sincerely,

/S

XAVIER BECERRA
Member of Congress